

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Peter VINZ

Serial No.: 08/875,916

Filed: October 31, 1997

For: GALVANOSORPTIVE REACTION CELL

Atty. Dkt No.: 006105.00001

Group Art Unit: 1725

Examiner: S. Kalafut

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED
APPLICATION UNDER 37 CFR § 1.137(b)**

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Applicant respectfully petitions to revive the above-captioned unintentionally abandoned application under 37 C.F.R. § 1.137(b). The above-captioned application was unintentionally abandoned on March 28, 2001 for failure to include a petition for a one-month extension of time and the appropriate extension fee under 37 C.F.R. § 1.17(a)(1) in filing a response on April 25, 2001 to a Final Office Action dated December 28, 2000.

To satisfy the requirements of 37 C.F.R. § 1.137(b):

- (1) Applicant submits herewith a CPA filing, Preliminary Amendment, and associated papers, to reply to the Final Office Action mailed December 28, 2000. Under MPEP § 711.03(c)(III)(A)(2)(b), the reply required for consideration of a Petition to Revive can be a CPA under 37 CFR 1.53(d) for utility applications filed before May 29, 2000;

- (2) Applicant authorizes the Commissioner to charge the requisite fee of \$640 for this petition under 37 CFR § 1.17(m) (small entity) to Banner & Witcoff's Deposit Account No. 19-0733; and
- (3) Applicant submits that the entire delay in filing this required reply from the due date for the reply (March 28, 2001) until the filing of this petition today was unintentional.

Applicant respectfully requests a grant of this petition in view of the following:

FACTS

Applicant transferred the file of the above-captioned patent application to this firm, Banner & Witcoff, Ltd., on or about March 25, 2002. Applicant provided this firm with the prosecution record up through and including January 31, 2002. However, this file history was incomplete. Accordingly, on March 25, 2002, Applicant's undersigned representative, being given the necessary Power of Attorney, ordered the file history corresponding to the above-captioned application and subsequently reviewed the same in detail.

After this review, it became apparent to the undersigned that Applicant had *pro se* filed a Continued Prosecution Application (CPA) on April 25, 2001, in response to a prior Final Office Action mailed December 28, 2000. Upon filing the CPA, Applicant failed to petition for the necessary extension of time and pay the requisite fee. Therefore, as of June 29, 2001, the above-

captioned application was unintentionally and retroactively abandoned on March 28, 2001, for failing to respond to the Final Office Action dated December 28, 2000.

Despite the unintentional abandonment of the above-captioned application, Applicant received a non-final Office Action having a mailing date of June 29, 2001, in response to the CPA filed on April 25, 2001. Thereafter, in response the Applicant *pro se* filed an Amendment on October 1, 2001. Next, the U.S. Patent and Trademark Office (USPTO) mailed a Notice of Noncompliant Amendment on January 2, 2002. In response, Applicant *pro se* filed a Supplemental Amendment on January 31, 2002.

Notwithstanding the above facts, the undersigned contacted Examiner Kalafut on May 1, 2002, to request clarification as of the status of the above-identified application, in view of the CPA having been filed on April 25, 2001, without the request for an extension of time or payment of the associated fee, in response to the Final Office Action mailed on December 28, 2000. Thereafter, the undersigned contacted Ms. Terry Dey on June 10, 2002, at the USPTO's Office of Patent Legal Administration. After having reviewed the subject file history in detail, Ms. Dey informed the undersigned that the subject application became unintentionally abandoned on March 28, 2001, for failure to include the necessary extension of time petition and associated fee.

Accordingly, in view of the above-noted facts, Applicant has, for the first time, confirmed as of June 10, 2002, that the subject application became unintentionally abandoned.

Before filing this Petition to Revive, Applicant and the undersigned spent considerable time to prepare the attached Preliminary Amendment and the new claims 30-63 presented therein. Additionally, the undersigned was out of the country from August 25, 2002 until September 13, 2002. During that time, the Applicant and the undersigned had numerous

discussions regarding finalizing the claims now presented in the Preliminary Amendment. Now having just today finalized the Preliminary Amendment, Applicant files herewith the instant Petition to Revive, a Continued Prosecution Application and all the necessary papers and fees associated therewith. Applicant respectfully requests entry of these documents into the record of the above-identified application.

In view of the above, Applicant submits that the provisions of 37 CFR § 1.137(b) have been properly complied with and respectfully requests revival of the above-captioned application, which was unintentionally abandoned on March 28, 2001. Applicant also respectfully requests prompt and favorable consideration of the Preliminary Amendment on the merits.

Respectfully submitted,



Ajay Pathak
Reg. No. 38,266

Dated: September 17, 2002

Banner & Witcoff, LTD.
Eleventh Floor
1001 G Street, N.W.
Washington, D. C. 20001-4597
(202) 508-9100

AP/pw

Enclosures:

Continued Prosecution Application Request Transmittal
Preliminary Amendment
Fee Transmittal Letter
Receipt Card